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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE DOUGLAS VILLEDA-MORAN; et
al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-72958

Agency Nos. A79-033-286
A79-033-287

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted February 26, 2008**

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

Lead petitioner Jose Douglas Villeda-Moran, and his wife, Mailin Guzman-Flores, natives and citizens of El Salvador, petition for review of a Board of Immigration Appeals' decision that adopted and affirmed an Immigration Judge's

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

order denying their claims for asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C.

§ 1252. We deny the petition for review.

The record does not compel the conclusion that the untimely filing of the asylum application should be excused. *See* 8 C.F.R. § 208.4(a)(5). Even assuming that the asylum application was timely, substantial evidence supports the finding that Villeda-Moran failed to demonstrate that he was persecuted, or that he has a well-founded fear of future persecution, on account of a statutorily protected ground. *See Molina-Morales v. INS*, 237 F.3d 1048, 1052 (9th Cir. 2001); *see also Ochoa v. Gonzales*, 406 F.3d 1166, 1171 (9th Cir. 2005).

Because Villeda-Moran failed to meet the lower standard of proof required to establish eligibility for asylum, he necessarily failed to show that he is entitled to withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Substantial evidence supports the determination that Villeda-Moran was ineligible for CAT relief, because he failed to establish that it is more likely than not he will be tortured should he return to El Salvador. *See Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003).

PETITION FOR REVIEW DENIED.